

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on January 11, 2001 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Dennis Himmelberger (R)
Rep. Carol C. Juneau (D)
Rep. Jim Keane (D)
Rep. Rick Laible (R)
Rep. Bob Lawson (R)
Rep. John Musgrove (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Donald Steinbeisser (R)
Rep. Brett Tramelli (D)
Rep. James Whitaker (R)

Members Excused: Rep. Roy Brown (R)

Members Absent: None.

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB120, HB136, HB139, HB150,
1/11/2001
Executive Action: HB87, HB51, HB98

HEARING ON 136

{Tape : 1; Side : A; Approx. Time Counter : 6.5}

Sponsor: REP. STANLEY FISHER, HD75, Bigfork

Proponents: Ron Grogan, Polson funeral home director
Lloyd Linden, MFDA
Jason Thornock, MFDA

Opponents: Peter Poutrelli, MAIFA
Claudia Clifford, State Auditor's Office
Roger McGlenn, IIAM
Dr. Harry Smith, AARP
Chuck Notbohm, AARP

Informational Witnesses: Steve Yeakel, National Funeral
Directors Association

Opening by Sponsor:

REP. STANLEY FISHER, HD75, Bigfork, asked the committee to strike the clause from the current law which forbids funeral home directors from being licensed insurance salesmen who can sell burial insurance.

Proponents Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 7.7}

Mr. Grogan told the committee that funeral directors are often approached by families who wish to make pre-planned funeral arrangements. As funeral directors are now barred from selling insurance the only way pre-paid arrangements can be obtained is to put the entire cost in a certificate of deposit in a bank. The costs can run as much as \$2-5,000 and many families often don't have that much cash available to set aside. They want the option to pay monthly. He said burial policies are available on a monthly basis in Montana from insurance agents but funeral directors are not allowed to sell them. He said only two states have this law and even in the other state which has the law, Florida, insurance agents are allowed to contract with the funeral home, so in essence the service is available there. Therefore Montana is actually alone in not allowing funeral directors to sell burial insurance policies. He said if they were allowed to sell this insurance they would then be licensed and regulated not only as funeral directors but as insurance agents.

Mr. Linden told the committee he had been licensed as a funeral director since 1958 and would soon retire. However, he said he supported changing the law so funeral directors could sell burial insurance.

Mr. Thornock said he was a licensed funeral director in three states: Oregon, Montana and Utah. He said a burial insurance policy protects the consumer and asked who would know more about burial expense than a funeral director. He said funding by a trust doesn't necessarily guarantee the price whereas insurance guarantees a payment of 30% the first year, 60% the second year, and after that it is completely paid.

Opponents' Testimony:

Mr. Poutrelli said he would be happy for the funeral directors to be licensed. His question to the committee was that the funeral home should not be the beneficiary. He said the beneficiary should be the family.

Ms. Clifford opposed the bill. She said the law which was being asked to be repealed had been on the books since 1979. She said there is the potential for abuse and not for recovery of losses. She said the incentive in selling commissioned products is to sell the most expensive, rather than the most cost-effective. She told the committee there are plenty of burial insurance products already available in Montana. She then noted not all funeral directors support this bill.

EXHIBIT (buh08a01) EXHIBIT (buh08a02) EXHIBIT (buh08a03)

She called refunds a problem and said customers might be limited to using a specific funeral home. She also said some products lock in at today's price but actually require customers to pay more over a period of time.

{Tape : 1; Side : A; Approx. Time Counter : 25}

Mr. McGlenn did not think the funeral homes could make themselves the beneficiaries.

{Tape : 1; Side : A; Approx. Time Counter : 26.3}

Dr. Smith said whereas change was inevitable, change which was not needed was dangerous. He said he was concerned for the consumer because people were very suggestible about these matters. He proposed the committee keep the law the same and keep insurance and funeral directors separate.

Mr. Notbohm said in representation of the 131,000 members of the AARP he opposed the change in the law.

{Tape : 1; Side : B; Approx. Time Counter : 1}

Questions from the Committee and Their Responses:

REP. LAWSON asked **Mr Grogan** to explain how beneficiaries were handled now. **Mr. Grogan** said the funeral home is now listed with the C.D. trust but to receive the money they have to have a death certificate and state what they will do with the money. **REP. LAWSON** asked if it was alright with him for the family to be the beneficiary. **Mr. Grogan** replied it was but if two siblings were in a rivalry the wishes of the decedent might not be followed.

REP. PRICE asked **Mr. Yeakel** asked if the Montana Funeral Directors Association endorsed the bill. **Mr. Yeakel** replied that not all members supported it.

REP. BOOKOUT-REINICKE asked **Ms. Clifford** if since lots of Montanans had to hold two jobs to get by why did she oppose this bill. **Ms. Clifford** said she opposed this bill because citizens were often distraught and it was inappropriate to sell insurance at this time.

REP. LAIBLE asked **Ms Clifford** if funeral directors became licensed to sell burial insurance if they could sell car, life and health insurance. **Ms. Clifford** said this would allow them to sell all kinds of life insurance.

REP. LAIBLE asked **Mr. Thornock** if they passed away the first year if they only got 30%. **Mr. Thornock** said that was how it worked.

REP. LAIBLE said that is not how my car insurance works.

REP. KEANE wanted to know from **Mr. Yeakel** how many members he represented. **Mr. Yeakel** replied they had about 60 firms in Montana of which 40 were members. He said there had only been an informal polling of those members which was divided.

Closing by Sponsor:

REP. FISHER said a funeral home depends upon its integrity and reputation to stay in business. He told the committee if we trust them to be our funeral directors we can trust them to sell insurance. He asked the committee to pass HB 136.

HEARING ON HB150

{Tape : 1; Side : B; Approx. Time Counter : 22.5}

Sponsor: REP. ROD BITNEY, HD77, Kalispell

Proponents: Jim Hill, State of Montana
Kevin Braun, Department of Labor and Industry
Ed Roberts, Stimson Lumber

Opponents: Don Judge, AFL-CIO

Opening by Sponsor:

REP. ROD BITNEY, HD77, Kalispell, told the committee this was a housekeeping bill and a fairness issue which had been requested by the Department of Labor and Industry and involves workers on mandated leave when the employment relationship is not terminated being workers compensation.

Proponents Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 26.1}

Mr. Hill and Mr. Roberts called the bill a fairness issues and urged support.

{Tape : 1; Side : A; Approx. Time Counter : 27}

Mr. Braun said cases were now before the Supreme Court which were a test of Section 5 of this law. They involve workers who went on mandated vacation and were denied claims.

Opponents Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 3.4}

Mr. Judge said he was in opposition but would support the bill if several of his concerns were addressed. He submitted written testimony. **EXHIBIT**(buh08a04)

Questions from the Committee and Their Responses:

REP. PRICE asked Mr. Braun if this bill mandated that the employee must take the vacation or if the employer must pay. Mr. Braun said it did not.

REP. MATTHEWS asked Mr. Judge if there were contracts out there that allowed the employer to designate vacation time. Mr. Judge replied that Stimson was unique and mandated the vacation during layoff. He said the problem with the bill is not that it mandated it but that it allowed it. He said unemployment is only about 49% of the average wage so many take their vacation time instead.

Closing by Sponsor:

REP BITNEY said this was a fairness issue as employees were already being paid for their vacation time to also collect the unemployment benefits was costly to the employers because it made their rates go up.

HEARING ON HB139

{Tape : 1; Side : B; Approx. Time Counter : 17.8}

Sponsor: REP. DAVE GALLIK, HD52, Helena

Proponents: Paul Spengler, Lewis & Clark County Project Impact
Tim Murphy, DNRC
Everett Stiger, Tri-County Fire Department
John Morrison, State Auditor
Pat McKelvey, Lewis & Clark County Project Impact
Bruce Suenran, self
Dasol Henson, self
John Semple, Montana Fur Alliance
Bill Houston, small business owner

Opponents: John McGlenn, IIAM
John Metropolous, FI6
Greg Van Horsen, State Farm Insurance
Jacqueline Lenmark, American Insurance Assn.

Opening by Sponsor:

REP. DAVE GALLIK, HD52, Helena, told the committee that this bill allowed people to make their home more safe from fire and in return to receive a reduction in their fire insurance rate. He called it a common sense incentive which would protect property and give financial relief.

Proponents Testimony:

Mr. Spengler said if the use of sprinkler systems and fire alarms could lower rates why could not other measures such as clearing brush and using non-combustible building materials. He said the bill would partner homeowners with insurance companies.

Mr. Murphy noted the recent wildfires had destroyed 321 homes and required protective measures on 5800 homes. He said guidelines were in place for fire suppression methods in fringe areas.

{Tape : 1; Side : B; Approx. Time Counter : 25.7}

Mr. Stiger noted that loss of firefighters' lives is a consideration as well as loss of homes. If homeowners had an incentive to keep their homes safe from fire, it would also save firefighters' lives. Now some people say to them to let the home burn because they have insurance. Letting a home burn can just be a seed to generating more destruction he said.

{Tape : 2; Side : B; Approx. Time Counter : 0.5}

Mr. Morrison said the bill would help all homeowners as it will have a positive effect on rates. He said the insurance companies stand to benefit as well as there would be less claims made.

Mr. McKelvey said he recommended the bill because it codified some definitions such as "disaster-resistant landscaping" and "defensible space." He presented prepared materials.

EXHIBIT (buh08a05) EXHIBIT (buh08a06) EXHIBIT (buh08a07) EXHIBIT (buh08a08).

Mr. Suenran said he supported the bill.

{Tape : 2; Side : B; Approx. Time Counter : 10}

Ms. Henson told of her experience with two wildfires which probably would have destroyed her home if her family had not taken defensible measures to protect their home. The steps she had taken included burying propane tanks, building retaining walls, coating the siding with fire retardant, using a hi-grade asphalt shingle and diagraming phone, electrical and cable underground lines.

{Tape : 2; Side : B; Approx. Time Counter : 15.4}

Mr. Semple said he supported all previous testimony.

Mr. Houston said this bill will help reduce property loss damage even though nothing is fireproof. This bill would be a positive step.

Opponents' Testimony:

{Tape : 2; Side : B; Approx. Time Counter : 17.6}

Mr. McGlenn stood in opposition to the bill because of the mandated insurance premium reduction. He said he would support a reduction when it was appropriate but not when it was mandated. He said the common market takes care of reductions when they are justified and that the state already oversees unusual or high

rates. He said some language changes could help insurers stand in support.

{Tape : 2; Side : B; Approx. Time Counter : 23.7}

Mr. Metropolous supported the concept but not in the way the bill was a mandate. He said the bill intervened in the marketplace. He would support the amendment proposed by **Mr. McGlenn**.

{Tape : 2; Side : B; Approx. Time Counter : 25.8}

Mr. VanHorsen said insurance is a business and there are costs associated with a product. Insurance's product is the payment of claims. The price of the product is driven by the cost. The cost is determined by the claims experienced. He cautioned the committee about mandating reductions when the marketplace already exists. He said, however, with certain changes, State Farm would withdraw its opposition.

{Tape : 3; Side : A; Approx. Time Counter : 2}

Ms. Lenmark supported Mr. McGlenn's amendments saying the Montana Code already had a detailed procedure for appealing rates. She said she was also concerned that the effective date of passage might be immediate and the insurance companies would not have adequate time. She also said she resisted the development of standards by other entities than the insurers to reduce the rates. She said she supported the intent of the bill but submitted that the intent is already accomplished.

EXHIBIT (buh08a09) EXHIBIT (buh08a10)

Questions from the Committee and Their Responses:

{Tape : 3; Side : A; Approx. Time Counter : 13}

REP. LAWSON asked **Mr. McGlenn** if rate reductions were dictated in state law for installing fire alarms. **Mr. McGlenn** replied they were not.

HEARING ON HB120

{Tape : 3; Side : A; Approx. Time Counter : 19.9}

Sponsor: REP. JOE MCKENNEY, HD 49, Great Falls

Proponents: Steve Meloy, Department of Commerce
Lon Mitchell, Department of Commerce

Jennifer Massman, Department of Commerce
Charlene Norris, Department of Commerce
Jani McCall, Deaconess Billings Clinic
Peggy Trenk, MT Assn. Of Realtors

Opponents:

Greg Gould, attorney

Opening by Sponsor:

REP. JOE MCKENNEY, HD49, Great Falls, said he was sponsoring this bill at the request of the Department of Commerce. He said the bill contained a lot of details and he asked the committee to direct their questions to the witnesses.

Proponents Testimony:

Mr. Meloy said the Department of Commerce had put all of their housekeeping concerns in one bill and presented a written summary to the committee. **EXHIBIT (buh08a11)** He said the bill clarified existing law and made existing statutes briefer. Mr. Mitchell, Ms. Norris, and Ms. Massman presented various sections of the exhibit.

Ms. MCCALL presented written testimony on behalf of Billings Deaconess Clinic and the Montana County Attorneys Assn.
EXHIBIT (buh08a12)

Ms. Trenk said the Montana Assn. Of Realtors and its 3000 members supported the bill saying it brings the law into line with how the marketplace functions.

Opponents Testimony:

Mr. Gould said he was concerned with some issues not addressed in the bill and presented written testimony. **EXHIBIT (buh08a13)**

Questions from the Committee and Their Responses:

REP. MATTHEWS asked Ms. Grief a question concerning requirements for a landscape architect. She replied they must take a national exam at this point but they are looking at adding educational requirements. Many individuals may be grandfathered in she said if educational requirements are added. REP. MATTHEWS asked how many landscape architects were licensed in Montana and she

replied there were 84 who were both in and out-of-state and 44 who were in-state.

Closing by Sponsor:

REP. MCKENNEY said he would like to meet with Mr. Gould before Executive Action was taken on the bill. He urged the committee to pass HB120.

{Tape : 4; Side : A; Approx. Time Counter : 0.0}

EXECUTIVE ACTION ON HB98

REP. LAWSON moved HB98 DO PASS. Motion Carried Unanimously. 19-0.

EXECUTIVE ACTION ON HB51

{Tape : 4; Side : A; Approx. Time Counter : 3.7}

REP. BITNEY said he had some reservations about the bill because it was unfair to employers and could cause their rates to go up.

REP. KEANE said he would support the bill because in Montana if you have two jobs you can only collect unemployment from one. He said he thought the bill would promote entrepreneurship as self-employed people would not be penalized.

CHAIRMAN MCKENNEY said he liked the bill and even though he had reservations he was putting them aside. He said many individuals when they first go into business have to have a part-time job to supplement their income.

REP. GALLIK moved HB51 DO PASS. Motion Carried Unanimously. 19-0.

EXECUTIVE ACTION ON HB87

{Tape : 4; Side : A; Approx. Time Counter : 8.2}

REP. MCKENNEY said he had spoken with the bill's sponsor, **REP. MASOLO**, who had told him she would prefer the amendments not be inserted into the bill. **REP. MASOLO** said she felt the amendments were unnecessary as they addressed matters already in the Montana Code.

REP. MATTHEWS said it was hard for him to do because he respected what **REP. JUNEAU** was trying to achieve with the amendments but he would have to oppose Amendments 3.

REP. GALVIN-HALCRO said she supported Amendment 3.

REP. LAWSON said he did not support Amendment 3.

REP. KEANE said if Amendment 5 passed he would offer a sub-amendment which would require a change in language so the language would be consistent with federal law.

REP. JUNEAU moved the amendments 1-5 separately and they each failed.

REP. LAWSON moved **HB87 DO PASS. Motion carried 17-2. REP. JUNEAU and REP. MUSGROVE voting NO.**

ADJOURNMENT

Adjournment: 11:48 A.M.

REP. JOE MCKENNEY, Chairman

JANE NOFSINGER, Secretary

JM/JN

EXHIBIT (buh08aad)